



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :

SCHNEIDER, D. G.

Serial No.: 10/684,312 Art Unit: 3749

Filed: October 10, 2003 Examiner: S. Gravini

Atty Docket: DGS001 Confirmation No: 3321

For: COLLAPSIBLE HEATING APPARATUS

Assistant Commissioner for Patents
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 CFR 1.131

Dear sir:

I, Donna Gail Schneider, declare as follows:

1. I am the sole inventor of the above-referenced patent application.
2. An Office Action mailed February 15, 2008 in connection with the present application rejected claims 1-16 under 35 U.S.C. 102(b) on the basis of Deichler, Jr. (U.S. 6,708,604). However, comparison of the filing date of the present application to any apparent filing, publication or issuance dates of the Deichler '604 patent readily reveals that the rejection of the present claims under 35 U.S.C. 102(b) is improper and without basis in fact. Thus, despite the rejection under this statute, this Declaration is believed proper to rebut any

presumption that the Deichler '604 reference is anticipates and predates the subject invention of present application based on the filing dates.

3. The earliest effective filing date of the Deichler '604 patent appears to be May 22, 2003.
4. I conceived my invention and reduced it to practice in the United States long prior to May 22, 2003, the effective filing date of U.S. Patent No. 6,708,604.
5. As evidence of my reduction to practice, well before the effective filing date of the Deichler '604 patent, of all aspects and features of the presently claimed invention, I have attached hereto as Exhibit 'A' photographs of the invention constructed and in operation in various configurations. I was personally involved in designing, constructing and testing the unit as shown in these photographs and was present as these photographs were taken. I attest that the date on the index print of photographs, although redacted, is before January 1, 2003 and that this redacted date is on or after when the photographs were taken and/or were printed or processed. Accordingly, the photographs showing the claimed invention in operation demonstrate my reduction to practice well before the effective filing date of the Deichler '604 patent.

6. The attached photographs of the invention in operation exhibit each of the presently claimed aspects and are explained as follows:
 - (a) Sheet 1 of Exhibit A is a index print from batch of photographs that included the other photographs described below. For privacy, some unrelated photographs on this index print have been obscured. I have first hand knowledge that all of the photographs I have included in Exhibit A are from the same batch of one or more reels of film represented by this index print that were exposed and submitted for processing together. I attest that this index print bears a date that, although redacted, indicates preparation of the index print on a date before January 1, 2003 and therefore well before May 22, 2003, the effective filing date of the Deichler '604 patent. All of the photographs described below show an implementation of the claimed invention (hereinafter "the unit") in various in-use and ready-to-store configurations.
 - (b) Sheet 2 of Exhibit A is a photograph associated with the aforementioned index print showing the individual panels from which the frame of the unit was then constructed as will be described below for the other photographs. In accordance with this embodiment, all of the thin detachable panels conveniently stored between the top and bottom 'lids' of the unit. The top and bottom were made to slide together and interlock so that the complete unit, including the grill and the side panels, formed a compact, enclosed form with about the size and shape of an average book.

- (c) Sheet 3 of Exhibit A is a photograph associated with the aforementioned index print showing the unit having been assembled from a plurality of metal side panels that were formed to detachably connect to one another along their edges. Sheet 2 shows the assembled unit forming a space substantially closed on all sides as might be appropriate for baking or smoking.
- (d) Sheet 4 of Exhibit A is a photograph associated with the aforementioned index print and affords a view of the assembled frame in relation to the top and bottom parts which are readily separable from the rigidly assembled, self-supporting frame. A rectangular frame is shown in this implementation, although other shapes could easily have been formed by employing a different quantity of, and/or appropriately designing of, the side panels that form the frame.
- (e) Sheet 5 of Exhibit A is a photograph associated with the aforementioned index print and shows an arrangement of side panels, different than for sheet 3, affecting both how much of the side is enclosed and which portion of the side is enclosed. The volume that is substantially enclosed is considered to have changed in comparison to Sheet 3. The side panels in this particular implementation were designed to firmly insert or wedge into adjoining pieces and to stay put in any vertical position for light loads.
- (f) Sheet 6 of Exhibit A is a photograph associated with the aforementioned index print showing an operation of the unit while configured as in Sheet 5 but

with the top removed for easy access to items and utensils on the grill. In this and other photographs, note the manner in which the grill or other transverse members rest upon and, in a groove or channel along its periphery, engages the top edge of the side panel to cooperatively maintain a rigid, fixed-shape structure and to hold the side panel in place.

(g) Sheet 7 of Exhibit A is a photograph associated with the aforementioned index print showing yet another configuration wherein, in comparison to sheet 3, a shorter side panel was used in the assembly of the frame of the unit to establish a lower grill position. Furthermore, note the availability of two other interchangeable panels on the ground in front of the unit that could be used to replace the first panel that is shown to be already in position, or could be inserted above the first panel to either further enclose the heated space or to elevate the grill (a transverse member) to a higher position. The panels could also have been inserted in a different order from bottom to top to support one or more grills or other transverse members in variable configurations. The first panel already inserted and the panels on the ground had different widths, lending to finer control over the grill positioning as well as control over the proportion and position at which a variably-configured side of the unit was enclosed. Thus, these panels had a particular physical dimension that affected attributes of the enclosure. Configuration of the enclosure was achieved by selecting from among these panels having different measurements. As one or more panels were installed to form a side of the unit, the width dimensions of each panel translated into a vertical height relative to the assembled standing frame.

7. I do not know of any instance, and do not believe that there has been any instance, in which my invention has been in public prior to my invention and I have never abandoned the invention.
8. All statements made herein are true of my own knowledge and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willfull false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willfill false statements may jeopardize the validity of any patent that may issue from the present application.

Respectfully submitted,



Donna Gail Schneider

5/3/08

Date

EXHIBIT 'A'

Exhibit A - Sheet 1

Film No

INDEX PRINT

Redacted date
appeared here

 FUJICOLOR

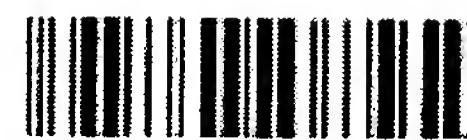
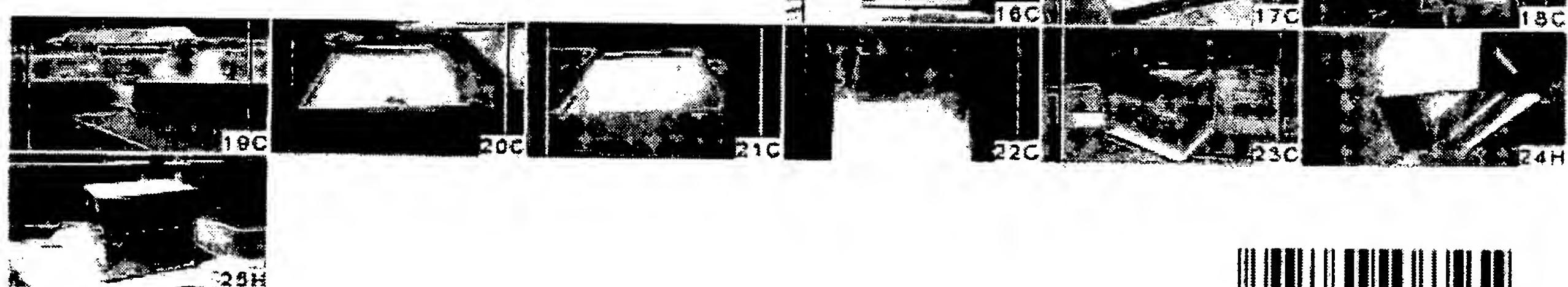


Exhibit A - Sheet 2

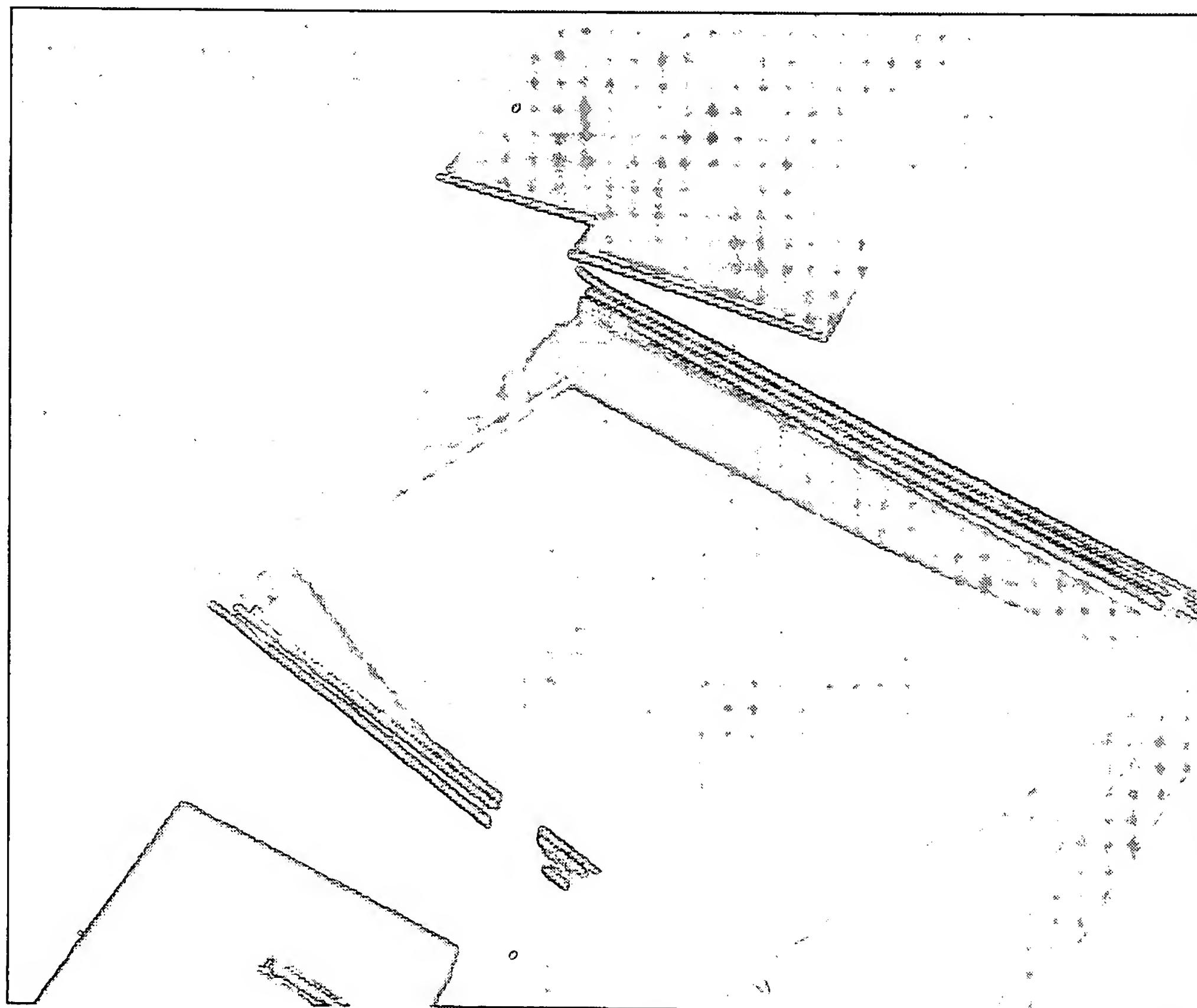


Exhibit A - Sheet 3

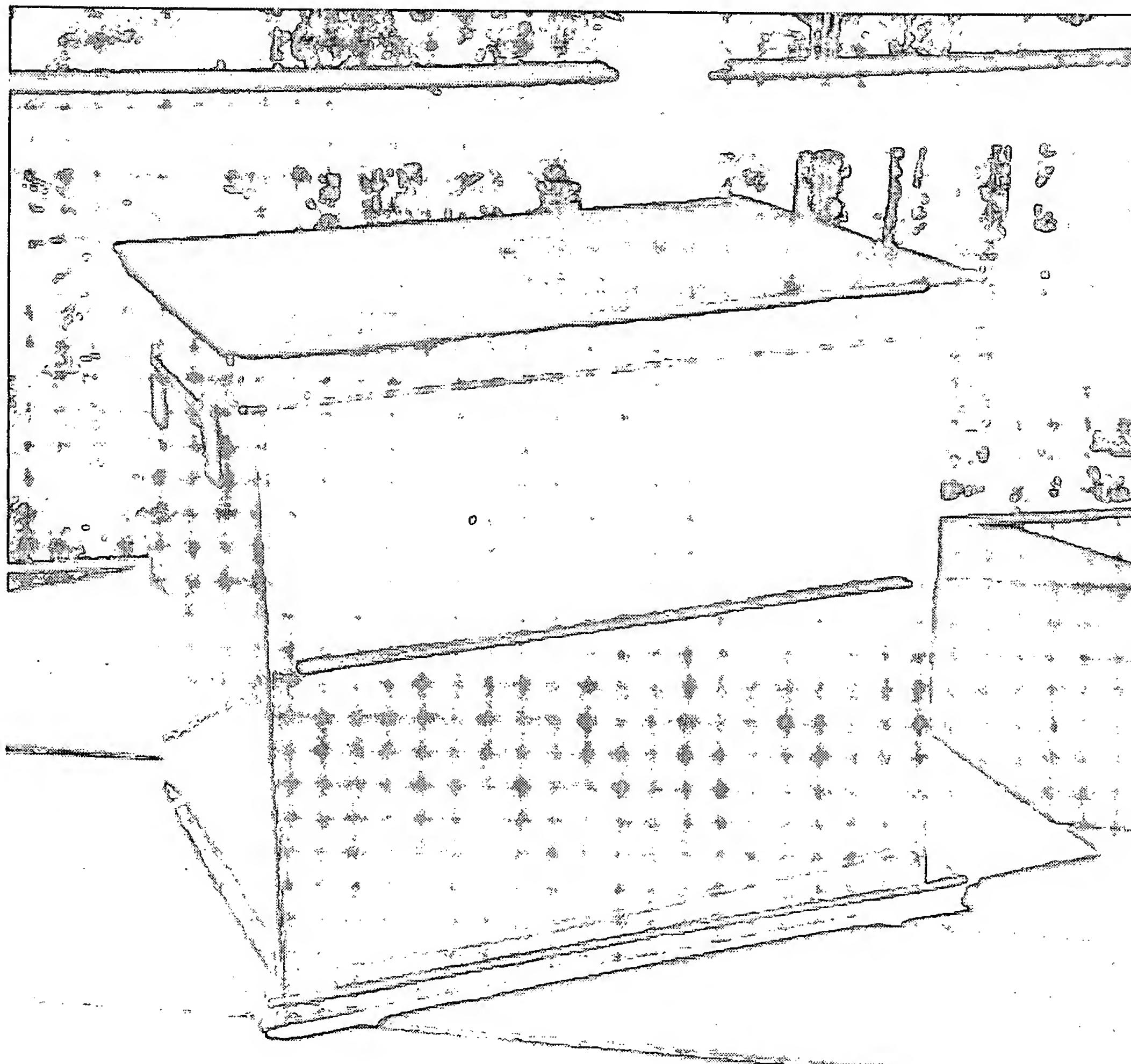


Exhibit A - Sheet 4

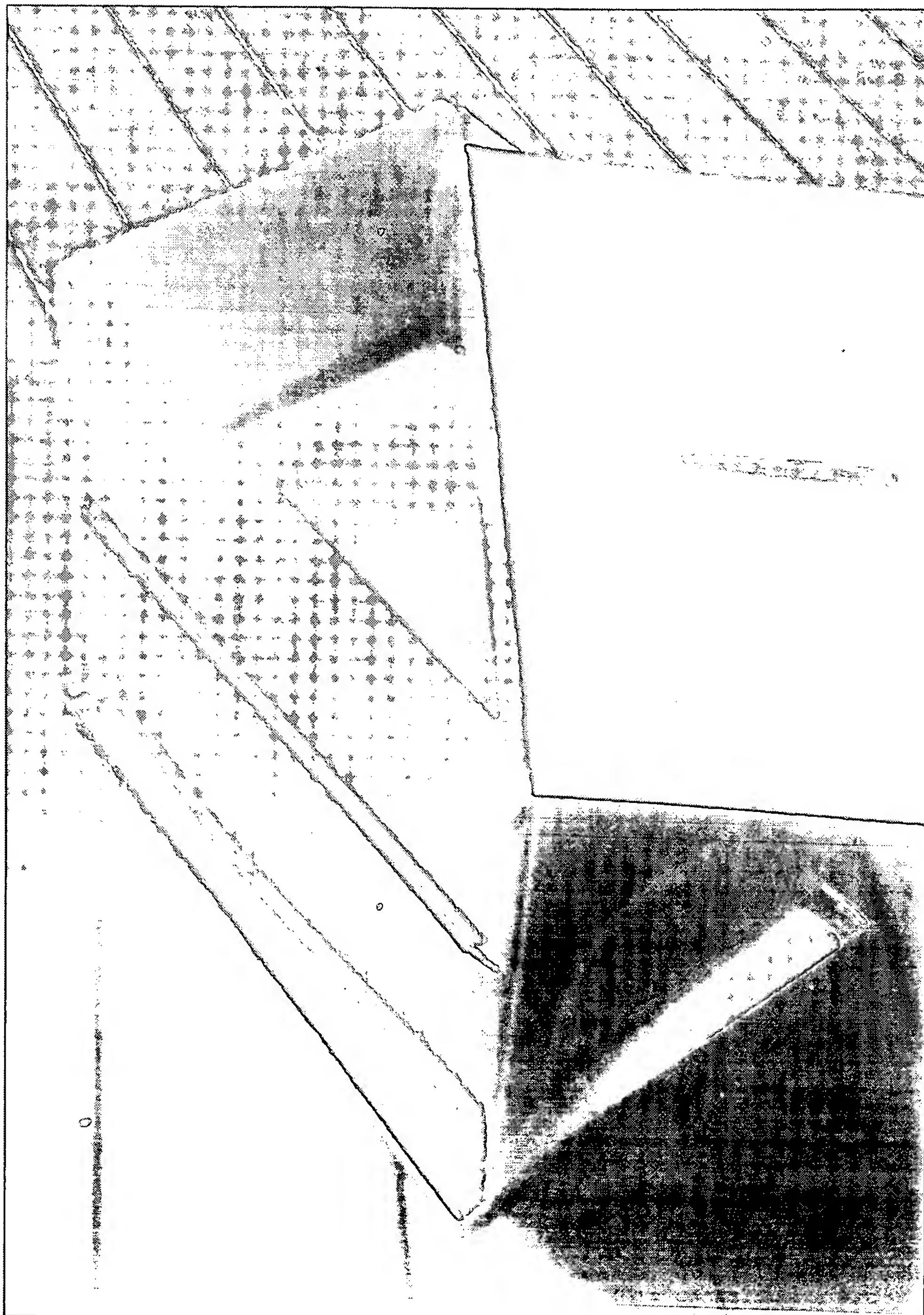
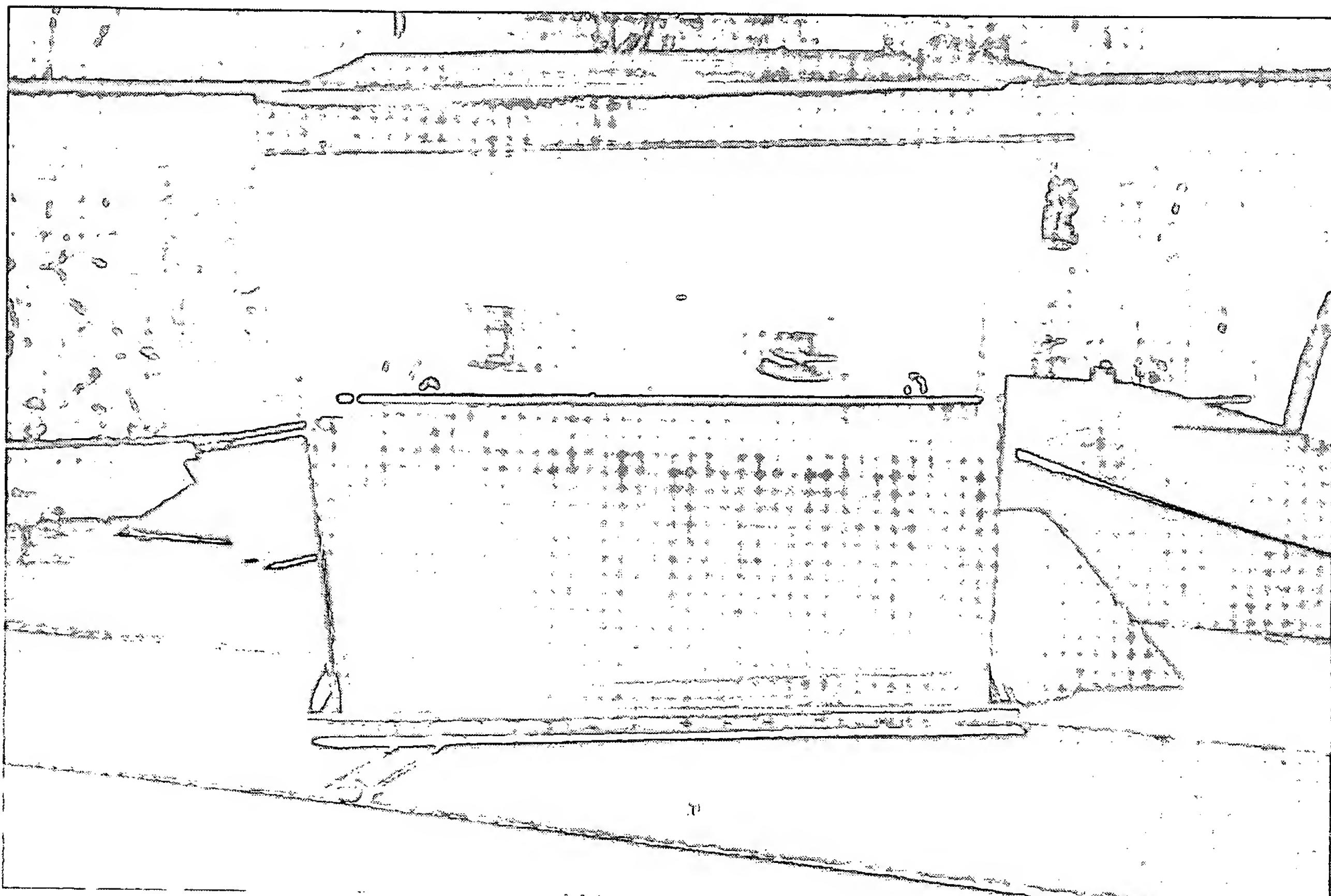


Exhibit A - Sheet 5



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Exhibit A - Sheet 6

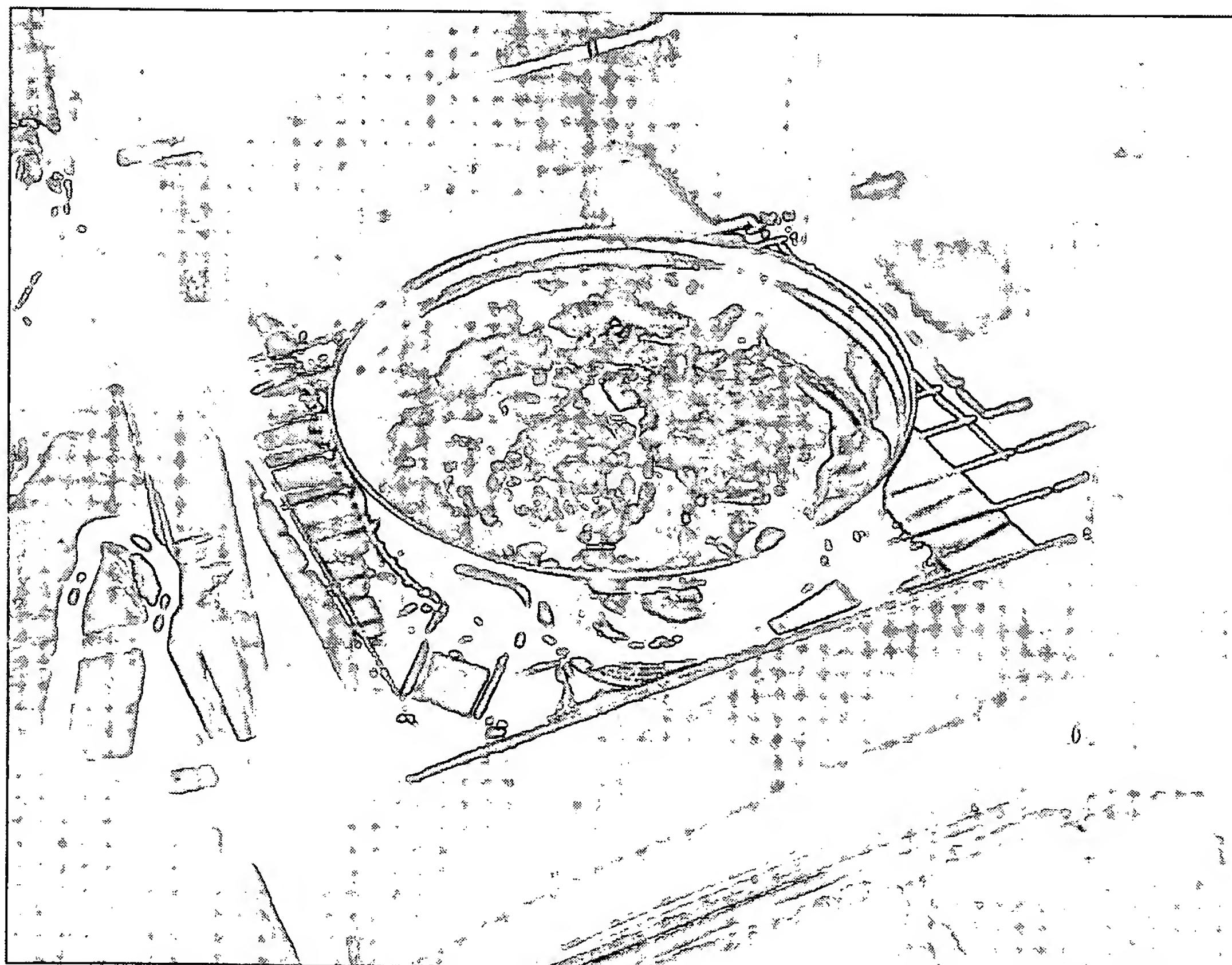


Exhibit A - Sheet 7

